

LAW OFFICES
HALEY BADER & POTTS P.L.C.
4350 NORTH FAIRFAX DR., SUITE 900
ARLINGTON, VIRGINIA 22203-1633
TELEPHONE (703) 841-0606
FAX (703) 841-2345
E-MAIL: haleybp@haleybp.com

JAMES E. DUNSTAN
Admitted in VA and DC

RECEIVED

JUN 13 1997

Federal Communications Commission
Office of Secretary

Our File No.
0080-108-63

June 13, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

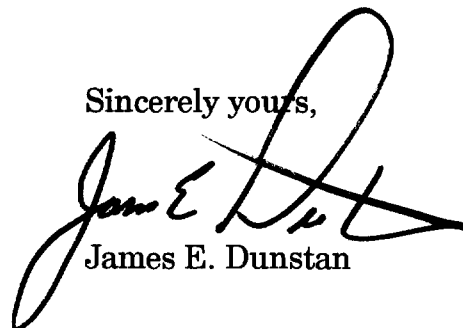
Re: Petition for Partial Reconsideration
MM Docket No. 87-268

Dear Mr. Caton:

On behalf of Great Trails Broadcasting Corporation, I am transmitting an original and nine copies of its Petition for Partial Reconsideration in the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268.

Please contact this office directly if there are any questions concerning this matter.

Sincerely yours,



James E. Dunstan

JED/cew
Enclosures (9)

No. of Copies rec'd 049
List A B C D E

Before The
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

JUN 13 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service)

To: The Commission

PETITION FOR PARTIAL RECONSIDERATION

Great Trails Broadcasting, Inc. ("Great Trails"), by its attorneys, hereby files this Petition For Partial Reconsideration of the Commission's Fifth Report and Order ("Fifth R&O") and Sixth Report and Order ("Sixth R&O") (adopted April 3, released April 21, 1997), in the above-referenced proceeding. In support of this Petition, Great Trails submits:

I. INTRODUCTION

Great Trails is the licensee of two television stations, WHAG-TV, Hagerstown, Maryland, and WFFT-TV, Fort Wayne, Indiana. Pursuant to the Sixth R&O, the Great Trails stations would operate with the following facilities:

Station	NTSC Channel	DTV Channel
WHAG-TV	25	55
WFFT-TV	55	36

WHAG-TV has operated since 1970, transmitting from a largely rural location in Maryland, some 65 miles Northwest of Washington, D.C., and 65 miles West of Baltimore. WHAG-TV, and NBC affiliate, supplies critical local news and information programming to viewers in Northwest Maryland, Southern Pennsylvania, and parts of West Virginia and Virginia. The Commission in its Sixth R&O saw fit to assign DTV 55 to WHAG-TV. Great Trails is deeply concerned that it will be unable to serve its current viewers from DTV Channel 55. Given the paucity of signals available over-the-air in Northwest Maryland and Southern Pennsylvania, Great Trails believes there is a strong likelihood that the net result of the Commission's decade-long pursuit of an advanced television standard will be a significant loss of local service in the area currently served by WHAG-TV. As discussed below, however, the extent of this loss cannot even be predicted on a theoretical basis at this point because of the failure of the Commission to provide the necessary analytical tools for licensees to undertake such studies. Moreover, allocating a channel to Great Trails which may not be within the ultimate "core spectrum" will place a heavy burden on this smaller market broadcasters who may be forced to build two DTV facilities while the dominant players in the Washington, D.C., market do not.

In Fort Wayne, Indiana, the other market served by Great Trails, the stations got together at the behest of the Commission after the release of the August, 1996, proposed table, and through the regional coordination process, developed a market-wide solution to the problems it perceived with that table

of allotments. Unfortunately, the Commission ignored the work of these stations, and produced a table in the Sixth R&O which bears no resemblance to that submitted by the stations in the market.

II. THE FAILURE OF THE COMMISSION TO RELEASE OET BULLETIN No. 69 MAKES IMPOSSIBLE A THOROUGH ANALYSIS OF THE TABLE OF ALLOTMENTS CONTAINED IN THE SIXTH REPORT AND ORDER

Great Trails' attempts to analyze the impact of the Sixth R&O's table of allotments on its operations in Maryland are severely hampered by the failure of the Commission to timely release the Office of Engineering and Technology's OET Bulletin No. 69, which will become the engineers' "bible" for calculating interference-free contours of DTV stations. Pursuant to new Section 73.622(e), for example, consulting engineers are required to calculate contours based on the Longley-Rice methodology which takes into account terrain factors in determining interference-free contours. *See* 62 Fed. Reg. 26717. The Sixth R&O makes multiple other references to OET Bulletin No. 69 as providing the "guidance" necessary to analyze station channel changes or modifications. *See* 62 Fed. Reg. 26717, 26719, 26732 *and* Sections 73.622 and Section 73.623.

When Great Trails learned that it might be required to build a DTV facility in rural and mountainous Maryland on Channel 55, it contacted its well respected consulting engineering firm to have them evaluate this channel. The best that they could do was produce models that mimic what they guess to be the FCC methodology. Attached hereto is a letter from Donald G. Everist,

of Cohen, Dippell and Everist, in which Mr. Everist concludes that until OET Bulletin No. 69 is released, "it is not possible to make an independent evaluation of the potential interference" or determine if another DTV allocation is possible that would provide better service to the public and would require a smaller broadcaster to change channels twice.

Great Trails is particularly concerned over the issue of interference at cable headends, especially during the transition period. Little attention has been paid to this subject in the DTV proceeding. Because of the mountainous terrain of the Potomac, Cumberland, and Shenandoah Valleys, many of WHAG-TV's viewers receive their programming via cable. A preliminary study using the "mimicing" equations appears to indicate that a digital WHAG-TV, operating on Channel 55, may have significant problems delivering signals to many of the cable systems currently carrying its signals because of the introduction of new interference (both NTSC-to-DTV and DTV-to-DTV). Unfortunately, it is impossible at this point, because of the lack of OET Bulletin No. 69, to calculate the precise interference impact on cable systems, whose headends tend to be located at higher elevations, where the Longley-Rice calculations may well show substantial new interference being introduced with the advent of DTV. Great Trails therefore reserves its right to request an alternative channel in this proceeding after it is able to conduct such studies once OET Bulletin No. 69 is released.

Great Trails is well aware of the desire of the Commission to conclude the allocation portion of this proceeding and let broadcasters get on with the

job of implementing DTV. Great Trails supports this goal. Until such time as the FCC provides the tools necessary to properly evaluate the new digital environment, however, the FCC cannot in good conscience conclude that its job is over. In the same way that a new house cannot be occupied until it has passed inspection, so too the Commission cannot declare the table of allotments complete until it has provided the necessary tools and time for its licensees to inspect the "house" the Commission has built, lest everyone discover, too late, that what the Commission has constructed is a house of cards. Great Trails therefore urges the Commission to provide this critical tool at the earliest possible juncture, and provide the time necessary for stations properly to evaluate their situations and recommend changes to the table of allotments where necessary.

III. BURDENING A SMALLER MARKET STATION WITH A DOUBLE CHANNEL CHANGE MANIFESTLY IS UNFAIR

In its Sixth R&O, the Commission affirmed its early conclusion that it should establish a "core spectrum" with an upper bound of Channel 51. Sixth R&O, pars. 82-84. In establishing this core spectrum while at the same time allocating Channel 55 for WHAG-TV, the Commission has placed a substantial burden on Great Trails. If the Commission's core spectrum proposal remains, Great Trails will be in the unenviable position of having to construct *two* DTV facilities, one on Channel 55, and another, at the end of the transition period, on either its original NTSC channel (Channel 25), or some other channel it might be able to determine would fit into the crowded Mid-Atlantic corridor.

A full review of table of allotments confirms the unfairness of the current allocations. *None* of the eight Washington D.C. stations, serving approximately six million viewers apiece, will be forced to move twice. That burden instead will fall on a station that covers just over a half-million people, one-tenth of the economic base of the larger Washington D.C. market. Of the three Hagerstown stations, again only WHAG-TV will be forced to move twice. The Commission has already recognized that the changeover to digital operations will not come cheap. Requiring WHAG-TV to change twice may make it economically non-viable for WHAG-TV to undertake such changes.

The Commission's Sixth R&O does little to provide any comfort to Great Trails that it might receive compensation from future auction winners for its second move. Rather than act upon the Broadcasters Coalition proposal that the Commission adopt a firm policy of compensation now, the Commission deferred this issue until a future rule making. Sixth R&O, par. 80. Without a firm policy in place at this point, Great Trails cannot count on such future compensation, and therefore must plan for the worst case scenario of having to change channels twice without any financial support for these changes, all from a revenue base one-tenth that of its large market neighbors.

IV. THE COMMISSION SHOULD EMPOWER INTRA-MARKET AND REGIONAL SOLUTIONS

In the Sixth Further Notice, the Commission recognized the importance of carefully coordinating changes to the table of allotments. 11 FCC Rcd. at 10111. Great Trails' WFFT-TV, Fort Wayne, Indiana, participated in the

regional coordinating process, and as a result of such coordination, the Fort Wayne stations submitted a market-wide alternative to the FCC's August, 1996, table, fully compatible with the other allocations therein. Great Trails understands that the Commission adopted different assumptions and "penalty" provisions in the computer run which resulted in the present table, however, and therefore the submission by the Fort Wayne stations might not have been compatible with such new assumptions and "seeding". It appears, nonetheless, that such market-wide solutions submitted to the FCC were not even considered. Before Great Trails commits itself to the further expense and time involved with future DTV coordinating committees, it must have some assurance that the activities of those committees will be given credence by the Commission. If the Commission truly is serious about relieving some of the administrative burden of the hundreds (if not thousands) of requests for changes which inevitably will follow from the current table, it must empower the DTV coordinating committees and accord their activities with some degree of deference. If not, then the Commission will be faced with years and years of fights between broadcasters over channel changes, frustrating a principal goal of the Commission to roll out DTV service as quickly as possible.

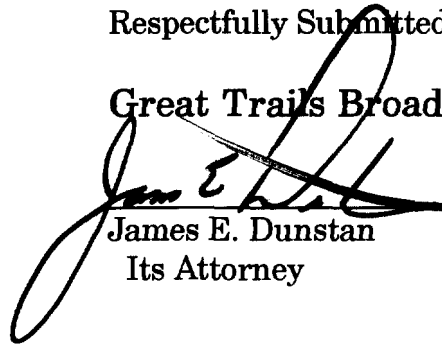
V. CONCLUSION

The picture painted by the FCC of a bright future of digital television indeed looks dim to this long-time broadcaster faced with the quadruple whammy of an assigned channel which may not provide adequate service in

the mountainous terrain of the Potomac, Cumberland, and Shenandoah Valleys, an assigned channel which will have to be abandoned at the end of the transition period, introducing digital TV into smaller television markets with marginal economic bases, and no assurance that its participation in inter- and intra-market coordinating efforts will be given any support at the Commission. Steps must be taken now to ameliorate this situation if the Commission truly wishes to introduce digital television to the country as a whole, and not just the top television markets, which the current table of allotments favor.

Respectfully Submitted,

Great Trails Broadcasting Corp.

A handwritten signature in black ink, appearing to read "James E. Dunstan", is written over the printed name and title.

James E. Dunstan
Its Attorney

Haley Bader & Potts P.L.C.
4350 N. Fairfax Dr., Suite 900
Arlington, VA 22203
(703) 841-2345

June 13, 1997

EXHIBIT I

**LETTER OF DONALD G. EVERIST OF
COHEN, DIPPELL AND EVERIST, P.C.,
CONSULTING ENGINEERING FIRM
DATED JUNE 12, 1997**

COHEN, DIPPELL AND EVERIST, P. C.

CONSULTING ENGINEERS

RADIO-TELEVISION

1300 L STREET, N. W.

SUITE 1100

WASHINGTON, D. C. 20005

(202) 898-0111

JULIUS COHEN

(1913-1993)

RALPH E. DIPPELL, JR.

(1922-1992)

FACSIMILE

(202) 898-0895

DONALD G. EVERIST

SUDHIR K. KHANNA

WARREN M. POWIS

JOHN R. URAM, JR.

ROBERT W. GUILL

WILSON A. LA FOLLETTE

E-MAIL:

CDEPC@WORLDNET.ATT.NET

June 12, 1997

Mr. Alex Williams
Great Trails Broadcasting Corp.
717 East David Road
Dayton, OH 45429

Re: MM Docket No. 87-268--Great Trails
Broadcasting Corporation

Dear Mr. Williams

Per your request, this is to report our evaluation of MM Docket 87-268¹ as it applies to the Great Trails Broadcasting Corp.'s stations WFFT(TV), Fort Wayne, Indiana, and WHAG-TV, Hagerstown, Maryland. This firm has studied the Sixth Report and Order and has performed many studies of existing NTSC and DTV service areas including WHAG-TV using the Institute for Telecommunication Sciences² HDTV program.

Based upon the studies, we find that it is not possible to make an independent evaluation of the potential interference (1) by DTV to existing NTSC service area, (2) DTV service replication, (3) alternate DTV frequency assignments, and (4) alternate station parameters such as an increase in power.

There are several reasons for this technical dilemma. First, the Commission in the proposed Section 73.622 of the FCC Rules indicates that OET Bulletin 69 provides the basis by which the DTV model has been developed. Also, OET Bulletin 69 in Section 73.623 is referenced to provide guidance for interference calculations. Unfortunately, that document has not been released by the Commission. Further, the Commission has not yet released in detail initial technical evaluation criteria on how it proposes to process DTV applications for modified facilities whether it is for a change

¹MM Docket No. 87-268, "In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Services", adopted April 3, 1997.

²The HDTV Model uses the Longley-Rice propagation methodology and evaluates grid cell size of 0.75-1.5 km with 3-second terrain data intervals between every 90 to 100 meters at 1 degree intervals.

COHEN, DIPPELL AND EVERIST, P. C.

Mr. Alex Williams
June 12, 1997
Page 2

in site, increase in height, change in effective radiated power, etc.

Therefore, until these technical guidelines and criteria are provided by the Commission no meaningful evaluations can be performed for either WHAG-TV or WFFT-TV.

We will perform these studies once this FCC technical information is available.

If there are any questions, please do not hesitate to contact this office.

Sincerely,



Donald G. Everist
Professional Engineer
D.C. Registration No. 5714

DGE:mcw
cc: Hugh Breslin
Michael Bader